

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
Wheeling**

**AARON JIMMIE URBAN,**

Plaintiff,

v.

**Civil Action No. 5:24-CV-153**

Judge Bailey

**PAT RYAN, CEO Sharpe's Hospital,  
SHEREE T. GRUBER, APRN-CNP,  
ACHUTA R. AYNAMPUDI, MD, and  
RICK DEMPSEY, Mental Health Ombudsman,**

Defendants.

**ORDER ADOPTING REPORT AND RECOMMENDATION**

The above referenced case is before this Court upon the magistrate judge's recommendation that plaintiff's Emergency Motion for Restraining Order [Doc. 14] be denied; plaintiff's Motion to Amend Complaint [Doc. 41] be denied as moot; defendants Motions to Dismiss [Docs. 42, 43, & 47] be granted; plaintiff's Motion for a Hearing [Doc. 55] be denied; and this case be dismissed without prejudice. See [Doc. 59].

This Court is charged with conducting a *de novo* review of any portion of the magistrate judge's report to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that report. 28 U.S.C. § 636(b)(1). However, absent prompt objection by a dissatisfied party, it appears that Congress did not intend for the district court to review the factual and legal conclusions of the magistrate judge. *Thomas v. Arn*, 474 U.S. 140 (1985). Additionally,

any party who fails to file timely, written objections to the magistrate judge's report pursuant to 28 U.S.C. § 636(b)(1) waives the right to raise those objections at the appellate court level. ***United States v. Schronce***, 727 F.2d 91 (4th Cir. 1984), *cert. denied*, 467 U.S. 1208 (1984). No objections have been filed to the magistrate judge's report and recommendation.<sup>1</sup>

A *de novo* review of the record indicates that the magistrate judge's report accurately summarizes this case and the applicable law. Accordingly, Magistrate Judge Mazzone's Report and Recommendation [Doc. 59] is **ADOPTED**. Plaintiff's Emergency Motion for Restraining Order [Doc. 14] and Motion for a Hearing [Doc. 55] are **DENIED**. Plaintiff's Motion to Amend Complaint [Doc. 41] is **DENIED AS MOOT**. Defendants Pat Ryan, Achuta R. Aynampudi, M.D., Sheree T. Gruber, APRN-CNP, and Rick Dempsey's Motions to Dismiss [Docs. 42, 43 & 47] are **GRANTED** and this case is **DISMISSED WITHOUT PREJUDICE**.

The Clerk is **DIRECTED TO STRIKE** the above-styled case from the active docket of this Court.

It is so **ORDERED**.


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<sup>1</sup> Pursuant to the R&R, plaintiff "shall have fourteen days from the date of service of this Report and Recommendation within which to file with the Clerk of this Court, **specific written objections, identifying the portions of the Report and Recommendation to which objection is made, and the basis of such objection.**" See [Doc. 59 at 13].

Service of the R&R was accepted on November 22, 2024. See [Doc. 61]. August 5, 2024, was twenty-four (24) days ago. Thus, this Court did not just wait the standard fourteen (14) days—this Court waited an additional ten (10) days before ruling on the pending R&R.

The Clerk is directed to transmit copies of this Order to any counsel of record herein and to the *pro se* plaintiff by certified mail, return receipt requested, to his last known address as reflected on the docket sheet.

**DATED:** December 16, 2024.



JOHN PRESTON BAILEY  
UNITED STATES DISTRICT JUDGE